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2. Mitre also describes itself as an “international hero” in the soccer ball stitching community and claims to have “pulled together manufacturers from all around the world in an attempt to eliminate child labor.” (*Id.*, Ex. F at 69-70.)

3. HBO, among other things, owns and operates the premium pay television network HBO and distributes the Emmy-award winning program “Real Sports with Bryant Gumbel” (“Real Sports”) on that network.

**B. The Segment**

4. On September 16, 2008, HBO telecast an episode of “Real Sports” that included a segment entitled “Children of Industry” (the “Segment”). (Bolger Dec., Ex. C.)

5. The Segment premiered on September 16, 2008. [REDACTED]

[REDACTED]

[REDACTED]

6. The Segment reports on the use of child labor in the stitching of soccer balls in two areas in India. (*Id.*) The Segment begins with an interview between Bernard Goldberg (“Goldberg”), a “Real Sports” correspondent, and Kailash Satyarthi (“Satyarthi”), an internationally recognized children’s rights advocate, who gives an overview of the use of child labor in the stitching of soccer balls in India. (*Id.*) The Segment goes on to report that, in the 1990s, after widespread child labor was uncovered in soccer ball manufacturing in Pakistan, Mitre called a summit of the world’s major soccer manufacturers, who pledged to eradicate the use of child labor in the manufacture of soccer balls. In particular, the Segment reports that Mitre and other companies pledged to adopt codes of conduct that prohibits the use of child labor, but that those codes of conduct have proven difficult to enforce.

7. The Segment then discusses two major, but distinct, child labor issues in India. First, the Segment discusses the use of low-paid child labor in Jalandhar, India to stitch soccer

balls. (*Id.*) It includes scenes of children under the age of fourteen stitching “Mitre Cobra” branded soccer balls in Jalandhar. The Segment then discusses the economic reasons why children stitch soccer balls and features an interview with several children stitching Mitre branded soccer balls for low wages. Thereafter, certain Mitre branded soccer balls are tracked – through the balls’ UPC codes – from India, where child labor is used, to retail stores in the United States. (*Id.*)

8. As a separate and second issue, the Segment discusses children who stitch soccer balls for no direct payment in Meerut, India. In Meerut, the children are in “debt bondage,” meaning they are working to pay off their parents’ debts. As Mitre acknowledges in the Complaint, the Segment “shows many other children both stitching and delivering finished soccer balls in Meerut, but never shows the brands of these balls nor mentions the names of these brands.” (Bolger Dec., Ex. A. ¶ 23.)

9. In addition, during the Segment, Goldberg reports on the statement Mitre provided in response to HBO’s requests for an interview: “We wanted to talk to Mitre and Wal-Mart but they declined our request for on camera interviews. But both did tell us that they regularly monitor their overseas suppliers to make sure that child labor is not being used, and that they wouldn’t tolerate any lapses. They also promised to investigate, as did the U.S. Department of Labor.” (*Id.*, Ex. C.)

### **C. The Complaint**

10. On October 23, 2008, Mitre filed the complaint initiating this action against HBO (the “Complaint”) and served the Complaint on October 29, 2008. (Bolger Dec., ¶ 2, Ex. A.)

11. In the Complaint, Mitre alleges that the Segment is false and defamatory because, it claims, no Mitre branded soccer balls are stitched in India by children. (*Id.*, Ex. A ¶ 44.) In fact, the Complaint goes even further, alleging that no child labor is used in the manufacture of

Mitre branded soccer balls. (*See generally id.*) Mitre also alleges that it plays “a leading role in the international effort to eliminate child labor in the manufacture of soccer balls.” (*Id.* at Introduction.)

**D. Mitre’s Use of Child Labor Makes International Headlines**

12. In a recent interview, Nicola Lesirge, Mitre’s marketing manager, proclaimed that Mitre has “become synonymous with football [soccer] and [is] the number one manufacturer of footballs [soccer balls] in the world . . . .” (Bolger Dec., Ex. I-1.) But while Mitre has achieved significant marketing and sales success – and brand recognition – in the United States and throughout the world, Mitre has also achieved international renown because child labor has repeatedly been found to have been used in the manufacture of its soccer balls. In response, Mitre has stepped forward and repeatedly issued public statements in which Mitre purports to lead the fight to end child labor.

**1. The 1995 Allegations of Child Labor and Mitre’s Response**

13. The first time the use of child labor in the manufacture of Mitre branded soccer balls became public seems to be in 1995. At that time, the United States had just hosted a successful soccer World Cup and “Soccer Fever” had gripped the nation. (*Id.*, Ex. I-9 at 26.) As American interest in soccer grew, so too did the interest of American non-profits, labor unions and media entities in the use of child labor in the manufacture of soccer balls. (*See id.*, Ex. I-10 (“In the 1990s, child labour used in stitching footballs attracted the attention of US-based human rights NGOs and trade unions.”).) As a result of these growing concerns, on April 6, 1995, the CBS news program “Eye to Eye” aired a segment discussing the use of child labor in the manufacture of soccer balls in Pakistan. (*Id.*, Ex. I-11.) The next day, *USA Today* published an article entitled “CBS: Balls Made By Child Laborers” that reported on CBS’ findings and noted that, “Virtually all of the USA’s top suppliers of soccer equipment – including Adidas, Umbro

and Mitre – import balls from Pakistan.” (*Id.*)

14. Just a few weeks later, on May 14, 1995, the *Sunday Times* of London wrote a lengthy article documenting the use of child labor in Pakistan and specifically reported that:

An investigation by the Sunday Times discovered that balls made for Mitre, the British manufacturer of sports goods that supplies the Football Association and Premier League, are being stitched together by children in Pakistan.

The children, often engaged in a modern form of slave labour, spend long hours in workshops around Sailkot, a Punjabi town near the border with India.

(Bolger Dec., Ex. I-12.)

15. Duncan Bembridge (“Bembridge”), the then marketing director for Mitre, was interviewed for the article and gave a statement promising to investigate the allegations and expressing “concern” that Mitre’s suppliers in Pakistan would break their purported agreements with Mitre not to use child labor. The article is available in the United States through the Lexis/Nexis database. (*Id.*)

16. The next week, on May 21, 1995, in a clear effort to influence the public discussion of the *Times* article, Bembridge sent a letter to the editor responding to the allegations, which reads:

Mitre Sports International do [sic] not condone in any form the use of child labour. Agreements with our factories in Pakistan clearly state our policy and we have written assurances that child labour is not being used to stitch Mitre balls.

As a father and a director of a highly principled international company, I am totally committed to stamping out child slavery.

(*Id.*, Ex. I-13.)

17. But Bembridge’s letter could do nothing to restrain the public’s growing concerns over the use of child labor. Reflecting public sentiment, for example, *The New York Times* reported that UNICEF pledged not to buy from suppliers that use child labor. (*Id.*, Ex. I-14.)

Public concern over child labor only continued to grow in the wake of the May 1996 scandal surrounding the use of child labor in the manufacture of Kathie Lee Gifford-branded clothing. (Bolger Dec., Ex. I-15.) Not all of this attention was necessarily critical: public commentary often included discussion of whether child labor can be an essential part of life for families living in extreme poverty – and even a preferred alternative to child starvation or prostitution. (*See, e.g., id.*, Exs. BB, I-14, I-16-20.)

2. The *Life* Article and Foulball

18. In June 1996, *Life* magazine again brought soccer ball stitching to the attention of the American public, publishing an article entitled “Six Cents an Hour” that vividly recounted the danger to children from being forced to stitch soccer balls in Sialkot. The article, for example, discussed the story of Kfayat, who stitches Cobra soccer balls, and “who has never been to school and has been stitching in the same shed for three years. He is paid 30 cents for each synthetic leather ball he stitches.” The article mentions Mitre by name as manufacturing balls in Pakistan. (*Id.*, Ex. I-21.)

19. The *Life* article also reported that “Western journalists have been threatened and assaulted for reporting on child labor in this still-feudal society, particularly in those industries where legions of small children toil for 60 cents a day to make products for export to the U.S. and other developed countries.” (Bolger Dec., Ex. I-21.)

20. Shortly after the article was published, United States Secretary of Labor Robert B. Reich held a press conference to announce the creation of the “FoulBall Campaign”. (Ex. J.) The campaign, sponsored by the International Labor Rights Fund (the “ILRF”), the International Labour Organization (the “ILO”), UNICEF, Save the Children, and the Sialkot (Pakistan) Chamber of Commerce was designed to end the use of child labor in the manufacture of soccer balls by putting pressure on the Fédération Internationale de Football Association (“FIFA”), the

world governing body of soccer, to withhold its endorsement from any balls manufactured using child labor. (*Id.*, Ex. I-22.) In announcing the Foulball Campaign, Reich cited the astonishing statistic that a 1994 Labor Department survey found that 20 to 25% of the 35 million balls produced in Saikot were produced by child laborers. (*Id.*) Reich (in words that were echoed by Satyarthi in the Segment) also called upon manufacturers to halt the use of child labor in part because “These children are robbed of their labor . . . but they are also robbed of their youth.” (*Id.*, Ex. J.)

3. Mitre Enters the Fray and Signs the Atlanta Agreement in Atlanta

21. The very next month, attempting to manage the public outcry against the soccer ball industry, Mitre stepped further into this public controversy to cast itself in the role of a crusader against child labor. Specifically, as described in a United Nations report, in July 1996, Mitre arranged a trip to Pakistan and invited Save the Children, a non-profit organization based in the U.K., to join them. (*Id.*, Ex. I-9 at 28.) The purpose of the trip, purportedly, was to lay the groundwork for a program to end child labor that would feature Save the Children as the entity responsible for monitoring the use of child labor in Pakistan. (*Id.*) Save the Children declined Mitre’s request to monitor child labor and the program was not established. (*Id.*)

22. Mitre’s efforts to put a manufacturer-led monitoring system in place following the public outcry in the United States continued, particularly after FIFA, in conjunction with several labor organizations, imposed a code of conduct on soccer ball manufacturers in September 1996. (*Id.*) As a result, in November 1996, Stephen Rubin, chairman of Mitre, called a conference of soccer ball manufacturers to discuss the problem further. (*Id.*) While the November 1996 meeting organized by Mitre did not immediately produce a formal agreement, it was the first step in developing a system to try to end the use of child labor in the manufacture of soccer balls in Pakistan. (*See* Bolger Dec., Ex A ¶ 27; Ex. F.)

23. Ultimately, the end result of Mitre's efforts was an agreement between Mitre and many of the world's other soccer ball manufacturers in which the manufacturers pledged to end the use of child labor in Sialkot, Pakistan within 18 months of the date of the agreement. The agreement, called the Partner's Agreement to Eliminate Child Labor in the Soccer Industry or the "Atlanta Agreement", was announced at the Manufacturers Association Super Show (the "Super Show") in Atlanta, Georgia, on February 14, 1997. (Bolger Dec., Ex. I-23.) In particular, the Atlanta Agreement called for an end to the practice of manufacturing soccer balls in people's homes – a practice that is widely believed to increase the use of child labor – and instead required contractors to register stitchers and work locations, thus making it easier to monitor. In addition, the Atlanta Agreement set up a \$1 million fund to aid in the efforts to end child labor. (*Id.*, Ex. I-24.) Finally, the Atlanta Agreement established a hotline for American consumers to learn which brands had signed on to the Agreement. The telephone number was 888-NO-1-CHILD. (*Id.*)

24. Not surprisingly, the Atlanta Agreement – and Mitre's involvement in bringing it about – was widely discussed throughout the United States and reports of the Agreement appeared in newspapers from New York to Miami to Dallas to Los Angeles. (*Id.*, Exs. I-23-32.) The response of some child advocates was described as "cautiously hopeful in their fight against child labor." (*Id.*, Ex. I-27.)

25. The Atlanta Agreement also had its critics. *The New York Times*, for example, described the Atlanta Agreement as merely a response to the public embarrassment occasioned by news reports publicizing the use of child labor. (*Id.*, Ex. I-24.) Other critics of the Atlanta Agreement were concerned with the negative effect that ending child labor in the soccer ball industry might have on the children stitching the balls. And "[s]ome children's rights advocates



wonder[ed] how far \$1 million [would] go in helping the thousands of children who might lose their jobs.” (*Id.*, Ex. I-24.)

26. Rubin, however, remained undeterred by such critics and moved forward saying that “the soccer community has asked for reassurance that child labor has no place in producing the soccer balls used in neighborhood sandlots or national stadiums.” (Bolger Dec., Ex. I-33.) He then pronounced, “For the first time ever – in any industry, in any part of the world – local manufacturers, global brands and internationally respected children’s organizations have agreed to work together to address child labor in a responsible manner.” (*Id.*) He And, in the Complaint in this case and elsewhere, Mitre claims credit for initiating the process. (*Id.*, Exs. A, V.)

4. Mitre’s Role in the Child Labor Controversy Continues:  
The Christian Aid Report and the SGFI

27. The Atlanta Agreement went into effect on February 14, 1997, but, despite all of the publicity surrounding the agreement and Mitre’s efforts to tout its own role in ending child labor, less than four months later, the very practice Rubin had so publicly exclaimed had “no place in producing [] soccer balls” was again found in the manufacture of Mitre branded soccer balls.

28. Specifically, in May 1997, Christian Aid, an English charity, issued a report entitled “A Sporting Chance: Tackling Child Labour in India’s Sports Goods Industry” that documented the use of child labor in the manufacture of soccer balls in India – a country that was not and, indeed, is not covered by the Atlanta Agreement. The report, which extensively discusses Mitre and its contractor in India, Mayor & Co., contains the following passage:

In Britain Eric Cantona is a hero to tens of thousands of youngsters: former footballer of the year and captain of Manchester United, the FA Premiership’s richest and most successful club. To Indian children like 11-year-old Sonia,

however, he is just another brand name passing through their hands in the monotonous routine of stitching footballs for export.

. . . .

Families stitching footballs in Sonia's village work mainly for Mayor and Co., India's biggest sports-goods exporter and a key supplier of Mitre, Britain's leading football maker. Owned by the Pentland Group, Mitre commands 60 per cent of the UK's £40 million football market and is official supplier to every club in the English FA Premiership except Chelsea and Manchester United this season. Sonia herself has stitched the Mitre Cosmic, unaware that it sells in Oxford Street for £14.99. Her share of the retail price is a paltry 14 pence - less than 1 per cent.

(Bolger Dec., Ex. X.)

29. The Christian Aid report was discussed in reports issued by the United States Departments of Labor and Defense and in media publications throughout the world, many of which are available on-line in the United States. (*Id.*, Exs. I-34-36.) *See also* Peter Donnelly & Leanne Petherick, "Worker's Playtime? Child Labour at the Extremes of the Sporting Spectrum," in *SPORT, CIVIL LIBERTIES AND HUMAN RIGHTS*, 9-29 (David McArdle & Richard Giulianotti, Eds., Routledge 2006); Gardiner, *et al.*, *SPORTS LAW* 3/E, 140 n.143, (Routledge Cavendish, 3d ed. Dec. 13, 2005).

30. Some media organizations even expanded on the report. For example, on May 12, 1997, *The Independent* published an article entitled "Child labour shame for leisure industry", which is still available on the Independent website, [www.independent.co.uk](http://www.independent.co.uk), accessible in the United States. The article reported that:

Families in [one child's] village work mainly for Mayor and Co., India's biggest sports-goods exporter, and a key supplier for Mitre, Britain's leading football maker and official supplier to all premiership clubs except Chelsea and Manchester United . . . .

(Bolger Dec., Ex. I-36.)

31. Mitre again went into damage control mode, publicly commenting on the allegations. The *Independent* article quotes a "Mitre spokeswoman" as saying that, while Mitre

“disputed some details” of the Christian Aid report, it “welcomed the report for its ‘balanced approach’” and is “happy to work with Christian Aid and other bodies, including a new committee in India, to tackle the problem.” (*Id.*)

32. Nonetheless, public disclosures that hinted at the use of child labor in the manufacture of Mitre branded equipment continued. For example, Dan McCurry, of the U.S.-based Foulball Campaign, travelled to Pakistan and India to evaluate how far the signatories to the Atlanta Agreement had progressed in complying with its goals. McCurry found that his ability to assess their progress was hamstrung by an unwillingness of the manufacturers to allow him access to the stitchers. (Bolger Dec., Ex. I-41.) While the body of the report does not name Mitre as one of the entities who obstructed McCurry, it calls on its readers to write to Mitre and the other firms that “dominate the soccer ball industry . . . [to] express your concern about foot-dragging in the implementation of the February 1997 Partnership Agreement [the Atlanta Agreement] to address child labor in the industry.” (*Id.*, Exs. I-41, I-42.)

33. Stung by these new revelations, Mitre’s agents again stepped forward in a clear effort to claim a place as leaders in the anti-child labor movement. In 1998, at Mitre’s urging, Mitre’s agents in India joined other sports good manufacturers to form the Sports Good Foundation of India (the “SGFI”). (Bolger Dec., Ex. V.) The SGFI’s stated mission is to monitor the manufacture of soccer balls in India and uncover the use of child labor. The SGFI, however, unlike the ILO, the ILRF, or Christian Aid, is not an independent monitoring organization – instead, it is funded solely by the manufacturers. At the time of its formation, the manufacturer members of the SGFI contributed 0.25% of their earnings to the SGFI, although that number has since fallen to 0.10%. (*Id.*, Exs. I-43, V.) To this day, Mitre proudly notes that it has supported the SGFI for 11 years and, in this case, Mitre has identified SGFI as the *sole*

body responsible for monitoring the use of child labor in the manufacture of Mitre branded products in India. (*Id.*, Ex. V.)

34. Manchester United, the current champion of the Premier League, is owned by an American, Malcolm Glazer, who also owns the National Football League's Tampa Bay Buccaneers. The team is "the world's most popular team. In any sport." (Bolger Dec., Ex K.) Manchester United is particularly popular in the United States, where it draws over 60,000 fans to each exhibition game. (*Id.*)

5. Mitre and the U.S. Department of Labor Report

35. Mitre also held itself out to the U.S. government as a leading opponent of child labor. In June 1997, Pentland, Mitre's parent company, voluntarily contributed to a United States Department of Labor ("DOL") report called "By The Sweat & Toil of Children." (Bolger Dec., Ex. Y.) The report commented generally on the problem of child labor in Sialkot and more directly on the delay in implementing the monitoring program put in place by the Atlanta Agreement. (*Id.* at 141.) As part of that report, Pentland volunteered information about its child labor monitoring system including the manufacture of Mitre branded products, its written policies regarding the use of child labor, the method by which Mitre branded soccer balls were imported into the United States, whether it had a labeling program to indicate that Mitre soccer balls were not made using child labor, whether its line of credit was dependent on its representations regarding the use of child labor and other specific details about its efforts to end child labor. (*Id.* at 119-21, 123-24.) Notably, Pentland, which is referred to by the DOL as "Pentland (Mitre)" told the Department of Labor that:

Pentland's soccer ball product managers visit their production facilities about three times a year to monitor compliance with their child labor policy. Pentland noted, however, that it is difficult to monitor for child labor since children are seldom found in the factories, but stitch soccer balls in homes and small workshops in the rural areas.

(*Id.* at 124.) All of this information was then published to the American public and is still available on the Department of Labor website.

6. Child Labor in the Soccer Ball Industry Continues to Capture Worldwide Attention and Mitre Stays at the Center of the Dispute

36. Over the next few years, the media's exposure of the on-going problem of child labor in the soccer ball industry continued. Many articles mentioned Mitre and its role in the ratification of the Atlanta Agreement. (*Id.*, Exs. I-44, I-45, I-10.) The media's exposure of the problem caught the attention of the Premier League. By September 1999, when Mitre's contract with the Premier League was coming to an end, the League announced that companies bidding for the new contract must provide evidence of their anti-child labor initiatives. (*Id.*, Ex. I-46.) Mitre was not awarded the new contract. (*Id.*)

37. It was not long before new allegations against Mitre came to the fore. In November 1999, the Clean Clothes Campaign in Belgium published an English language report entitled "Sialkot, Pakistan: The football industry From Child Labour to Worker's Rights." (Bolger Dec., Ex. Z.) The report purported to assess the success of the Atlanta Agreement and contained some disturbing information, including that, "In April 1999 . . . the ILO [the organization charged with monitoring the implementation of the Atlanta Agreement] declared itself no longer satisfied with the information published by the manufacturers." The report, which is still available in the United States, mentioned that Mitre was one of the manufacturers still operating in Sialkot. (*Id.*)

38. Mitre, for its part, continued to insert itself into the public discussion. On September 21, 1998, *Rubber & Plastic News*, an Ohio-based publication, wrote an article entitled "Soccer Industry Works To Stop Child Labor" that contains the following quote:

"You don't want to just walk in with a knee-jerk reaction and take away

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someone's livelihood," said Tim Richardson, director of corporate communications for Pentland USA, a division of Pentland P.L.C. Pentland is the parent company of Mitre Sports, which makes the official ball of Major League Soccer.

(*Id.*, Ex. I-45.)

39. Mitre elaborated further in an April 26, 2000, article in *The Independent (London)*, headlined "The Business World: Focus: The Big Business of Human Rights", which discussed, in part, the use of child labor in soccer ball stitching. In that article, Mitre's representatives were quoted as claiming that "many children [in Sialkot, Pakistan] had stopped stitching footballs . . . Mitre hopes micro-credit and skills training schemes will create new sources of income." (*Id.*, Ex. I-10.)

7. New Reports of Mitre's Use of Child Labor Continue

40. Despite Mitre's efforts to control the public discussion regarding its use of child labor, Mitre faced new disclosures in 2000. The India Committee of the Netherlands released a report entitled "The Dark Side of Football: Child and Adult Labor in India's Football Industry and the Role of FIFA," which focused on the use of child labor in the Punjab region of India (the "ICN Report"), where Jalandhar is located. The report gave a history of the anti-child labor movement in India, mentioning that although the Atlanta Agreement went into effect in 1997 in Pakistan, no comparable organization addressed the child labor problems in India until 2000. The report then assessed the success of the monitoring program in India and concluded:

There is strong evidence that a few members of the SGFI are hiding a part of their production from the monitoring system, in particular the largest exporter Mayor & Co. This company is supplying balls to Adidas, Mitre and Mundo, as well as to other FIFA/ISL-licensed companies.

There is strong evidence that at least some members of the SGFI are deliberately hiding a considerable part of their production from the monitoring system. This implies that there is no check on child labour and working conditions in the area where this production is found: the district of Gurdaspur. Especially India's largest sports goods exporter, Mayor & Co., seems to be involved in this.

(*Id.*, Ex. AA.)

41. SGFI is Mitre's sole monitor of the manufacture of Mitre branded soccer balls in India. (Bolger Dec., Ex. A ¶ 25.) Additionally, Mitre stated during discovery in this action that SGFI was responsible for obtaining the exhibits that Mitre annexed to the Complaint that purport to contain interviews with the children that appear in the Segment and their guardians. (Bolger Dec. ¶ 8.)

42. The ICN report achieved significant international attention and was discussed in the media across the globe and in several books – all of which are accessible in the United States. (*Id.*, Exs. I-47-50.) *See* Noel Castree, et al., SPACES OF WORK: GLOBAL CAPITALISM AND THE GEOGRAPHIES OF LABOR, 3 (Sage Publications Ltd. 2004), Andrew Clayon, "Child Labour in the Third World," *in* UNDERSTANDING HOW ISSUES IN BUSINESS ETHICS DEVELOP, 90-117 (Ian Jones & Michael G. Pollitt, eds., Palgrave Macmillan 2002). And, at least in part as a result of the ICN Report, UNICEF and FIFA jointly announced that FIFA would dedicate the 2002 Word Cup to children. (Bolger Dec., Ex. I-51.)

8. Mitre Advertises Its Prominence in the Child Labor Controversy

43. Despite, or perhaps because of, the repeated discovery of the use of child labor in the manufacture of Mitre branded soccer balls, Mitre continues to publicly hold itself out as a leader in the fight against the use of child labor. Mitre posts its "ethical promise" on its website at <http://www.mitre.com/ethical-promise.html>, where it features its "Code of employment standards for suppliers." There, Mitre specifically points out its requirement to its suppliers that "Child labour is not used." (*Id.*, Ex. W.) Just two pages later, however, the code makes provisions for what to do when the use of child labor is discovered. (*Id.*) Similarly, in a document entitled "Mitre Making A Difference: Addressing child labor in India," Mitre admits that "stitching involved in making footballs (soccer balls) is often sub-contracted out to





46. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

47. Lastly, in this litigation, Mitre's counsel stood before the Court and described Mitre as an "international hero" in the soccer ball stitching community that claims to have "pulled together manufacturers from all around the world in an attempt to eliminate child labor." (*Id.*, Ex. F at 69-70.)

48. Despite all these pronouncements, as recently as July 22, 2007, the *Sunday Mail*, a Scottish publication, noted in an article available in the United States via Lexis/Nexis that Mitre has "been linked to child labor." (Bolger Dec., Ex. I-53.)

49. Through these efforts, Mitre has injected itself in the middle of the public controversy about the use of child labor in the manufacture of consumer goods sold in the United States. Following its now well-established approach, when HBO informed Mitre that child labor was being used in the manufacture of Mitre balls in India, Mitre sent the following written comment to HBO:

With the delay in receiving any information about this report and the limited information provided, we are unable to comment on the accuracy of the report.

However, Mitre recognized that there have been instances in the industry where young people have been involved in stitching and we support the efforts of all the regulatory bodies to eliminate this: in particular in India, Mitre supports the efforts of the Sports Good Foundation of India (SGFI) to implement social and educational programmes designed to help the families of those involved in stitching balls.

We take this report very seriously but believe the industry and our checks ensure that any such instance would be isolated and not widespread. We are following

up on the report and would welcome and further information you have so we can quickly take any positive action required to help the families involved. We can then also review our checking procedures with our factories and SGFI and rectify any failings we might identify in the light of these investigations.

(Bolger Dec., Ex. MM.)

50. Mitre's pattern is clear – despite its public pledges to the contrary, child labor is routinely found by anyone who looks into the manufacture of Mitre branded soccer balls. In an effort to stem the tide of bad publicity created by each discovery, Mitre steps forward to deny the use of child labor and tout its own behavior in combating child labor.

**E. Mitre: A Leading Name In The Manufacture And Sales of Soccer Equipment**

51. Of course, Mitre's involvement in the sports goods industry is not limited to its use of child labor and/or its anti-child labor statements. Instead, Mitre is a brand with worldwide name recognition. At the consumer level, Mitre branded equipment is widely advertised and available throughout the world, including in the United States. Mitre goods can be purchased at the largest United States retailers, such as Wal-Mart, Modell's Sporting Goods and Kmart, or on the Internet on ebay.com or amazon.com. (*Id.*, Exs. N-S.) [REDACTED]

[REDACTED]

A member of the American public looking to purchase a soccer ball very often will be presented with the opportunity to buy a Mitre ball.

52. Mitre's success in the United States and around the world is due in some measure to the large number of Mitre sponsorship agreements over the years. In 1992, Mitre became the maker of the first official ball of the then fledgling Premier League, which rapidly became the world's most popular national football league, and Mitre remained its sponsor until 2000. (*Id.*, Exs. I-54, I-55, U.) Premier League games are currently broadcast in the United States on the Fox Soccer Channel and ESPN. (Bolger Dec., Ex. K.) Mitre also was the first official sponsor

of Major League Soccer, the professional soccer league in the United States in 1996. (Bolger Dec., Ex. I-1-4.)

1. Mitre and the United States Market

53. According to its website, Mitre was established in England in 1817 and “has been around since the dawn of professional sport.” (Bolger Dec., Ex. T.) Mitre began selling soccer balls, shoes and accessories in the United States in 1975, and its profile in the United States rose immediately. (*Id.*, Ex. I-8.) In 1977, Mohammed Ali wore Mitre in his bout with Leon Spinks in New Orleans. (*Id.*, Ex. T.) According to Mitre’s former president, the strength of its sales initially was due to the increase in popularity of the game of soccer in the United States. (*Id.*, Ex. I-8.) In 1989, Mitre undertook additional steps to raise its profile in the U.S., selling fixed-*cleat* baseball shoes, including one sponsored by Orel Hershisser, the then-current Cy Young Award winner, who endorsed the shoe at the annual Super Show in Atlanta in 1989. (*Id.*, Exs. I-57, I-58.) A 1989 *Sports Illustrated* article described Mitre’s plans to make Mitre “a major player in the athletic-shoe game” in the United States. (*Id.*, Ex. I-58.) By January 7, 1991, Mitre’s efforts were so successful that *The Seattle Times* described Mitre as one of “two giants in the soccer industry.” (Bolger Dec., Ex. I-59.)

54. Later that year, in August 1991, Mitre “got people talking” and “rais[ed] a few eyebrows” by publishing a print ad for the University of Notre Dame’s soccer team, which showed the team beneath the university’s famous golden dome, with a caption that read “Equipped by Mitre. Recruited by God.” (*Id.*, Exs. I-60, I-61.) Mitre continued to undertake deliberate steps towards becoming a leading name in American soccer in May 1991 when it signed an endorsement deal with America’s most famous soccer player, the goalie of the United States national team, Tony Meola, to produce a line of soccer cleats called the “Mitre Meola”. (*Id.*, Exs. I-62, I-63.)

55. In 1992, Genesco, Inc. bought Mitre and, shortly thereafter, moved Mitre's base of operations to Nashville, Tennessee. (*Id.*, Exs. I-64-66.)

2. Mitre Becomes "The Leading Maker Of Soccer Shoes And Balls In The U.S."

56. Following its move to Nashville, Mitre stepped up its marketing and sponsorship efforts in the United States. Indeed, the National Sporting Goods Association's Expo '92 included a panel entitled "How to Merchandise Soccer," and Dan Morgan, the vice-president of sales for Mitre, was one of the participants. (Bolger Dec., Ex. I-64.) In addition, Mitre was an active participant in the 1994 Super Show in Atlanta, Georgia. An Associated Press wire story from February 7, 1994, discussing the event reads:

"I think the impact of the World Cup is going to be tremendous," said Joe Fields, marketing vice president of Nashville-based Mitre Sports International Ltd., a leading make of soccer shoes, balls and apparel.

(*Id.*, Exs. I-65, I-66.)

57. Fields' prediction proved correct.

58. By June, several American media outlets were reporting that soccer clothing was the summer's great fashion craze. See "Fashion Gets a Kick From Soccer" (*Id.*, Exs. I-67, I-68.) Mitre was described as a "must-have brand" (*id.*) and the *South Florida Sun Sentinel* reported that "serious soccer-esque dressers go for brands like Umbro, Mitre and Adidas". (*Id.*, Ex. I-69.) Similarly, the *Fresno Bee*, reported on June 17, 1994, that "strong fan interest in World Cup 1994" had resulted in "Mitre soccer balls . . . stacked high in a display window at the All America Sports Fan in Manchester Mall" in Fresno, California. (*Id.*, Ex. I-70.)

59. Mitre furthered its efforts to increase its profile by sponsoring soccer leagues throughout the United States. In 1992, Mitre signed a contract with the Fort Lauderdale Strikers, a team in the now-defunct American Professional Soccer League. (Bolger Dec., Ex. I-71.) As part of their deal with the Strikers, Mitre engaged in promotions that served to spread the Mitre

name to the soccer-going public. (*Id.*, Ex. I-72.) Mitre also sponsored the Fort Lauderdale Strikers' soccer camp for boys and girls ages 6 to 18, at which all participants received a free leather Mitre ball and T-shirt. (*Id.*, Exs. I-73, I-109.)

60. In addition, in 1993, Mitre signed an agreement to provide the official ball for the United States Interregional Soccer League, a semi-pro soccer league that began in Dallas, Texas, but by April 21, 1993, had 43 teams "from California to Connecticut to Florida." (*Id.*, Exs. I-74, I-75.) Mitre also sponsored an under-17 men's team from Tennessee called the Mitre Express, (*id.*, Ex. I-5), the Mitre Cup, "one of the premier U.S. indoor soccer club tournaments," (*id.*, Ex. I-76) and the Mitre Classic soccer tournament for college men's teams. (*Id.*, Ex. I-77.) Further, Mitre and Pepsi-Cola were "reportedly conducting a soccer-themed cross-promotion" during the World Cup. (*Id.*, Ex. I-78.)

61. All of these activities were successful: on April 26, 1993, *Forbes* magazine called Mitre the "leading maker of soccer shoes and balls in the U.S." (Bolger Dec., Ex. I-7.) Mitre touts itself in similar terms, claiming that, by 1995, it had "massive brand exposure in the fast expanding US market." (*Id.*, Ex. U.)

### 3. Mitre Becomes The First Official Ball of Major League Soccer

62. After the successful appearance of the United States men's soccer team in the 1994 World Cup, Major League Soccer (the "MLS"), a professional men's soccer league, was formed in the United States. (*Id.*, Ex. I-3.) And, in 1994, more than a year before the MLS played its first game, Mitre became one of the MLS's first sponsors, agreeing to provide the league balls. (*Id.*) The Mitre sponsorship of the MLS was covered in almost every major newspaper in the United States from *USA Today* to the *New York Times*, to the *Atlanta Journal-Constitution*, to the *L.A. Times*, to the *Columbus Dispatch*. (*Id.*, Exs. I-2-4, I-79-85.) As part of the sponsorship arrangement, Mitre received advertising time to promote its products during the

35 league games that were nationally televised on either ESPN or ESPN2 and during the MLS title match, which aired on the ABC television network throughout the United States. (*Id.*, Ex. I-86.) Mitre also received on-field signage and incorporation into all of the league's youth programs. (*Id.*) Mitre remained the official soccer ball of the MLS until 2000 (*id.*, Exs. I-87, I-88) and today remains so much a part of the lore surrounding the creation of the league that it was mentioned in a 2005 article reflecting on the tenth season of the MLS. (*See id.*, Ex. I-89 ("The league has endured its share of tough patches since San Jose and D.C. United dribbled the first Mitre ball in the inaugural MLS match.")).

#### 4. Mitre Maintains Its High Profile

63. In August 1995, Pentland Group PLC, the current owner, bought Mitre and returned its base of operations to the United Kingdom. (*Id.*, Ex. I-90.) Nonetheless, Mitre remains committed to expanding its brand in the United States. It heavily promotes its products in the United States, issuing press releases to the American media when it releases new products, from its new Street Ball in 1996 (*id.*, Ex. I-91) to its new line of fashion street shoes in 2006 (*id.*, Ex. I-92.) [REDACTED]

64. In addition to promoting the release of its products, Mitre remains committed to sponsoring other American-based soccer events, including the Mitre National Indoor Tournament (Bolger Dec., Exs. I-93-97), which took place at various locations across the United States, and the Mitre Classic soccer tournament. (*Id.*, Ex. I-98.) Mitre also took part in the Soccer Celebration hosted by MLS' Tampa Bay Mutiny on April 7, 1997, hosting a game called the Mitre Power shot (*id.*, Ex. I-99), and co-sponsored the "Ultimate Soccer Challenge" at the *Milwaukee Journal Sentinel's* Get You Moving health and fitness expo in May 1998. (*Id.*, Ex. 110.) Similarly, on June 21, 2000, the *Las Vegas Review – Journal* advertised a soccer camp

from July 17-21 at which each player would receive “A Mitre shirt, a Mitre ball.” (*Id.*, Ex. I-100.)

65. Mitre also expands its reach through new promotional efforts. In 2002, Mitre balls were featured prominently in the film and trailer for the wildly successful film *Bend it Like Beckham*. (See Bolger Dec., Ex. I-111, available at <http://www.youtube.com/watch?v=At5opsDNqbw>.) For its contribution to the film, Mitre received an “Additional Thanks” in the film’s credits. (Bolger Dec., Ex. I-101.) *Bend It Like Beckham* grossed \$32.5 million in box office receipts in the United States and was nominated for numerous awards, including a Golden Globe for Best Picture (Musical or Comedy). (Bolger Dec., Ex. L.)

66. Mitre has consistently pursued marketing efforts in the United States and continues to do so today, routinely issuing press releases about its new products and new developments in the soccer community. On May 31, 2005, for example, Mitre announced that David Beckham would make his first-ever American appearance with the England national team in Giants’ Stadium. The press release emphasized that the England national team will “use the new Official England National Team game ball, the Mitre Pro 100T”. (*Id.*, Ex. I-102.) Mitre has also hired a public relations firm, Pitch PR, to market its products in the United States and around the world. (*Id.*, Ex. I-103.)

##### 5. Mitre In The United States Today

67. Mitre has maintained its high profile in the United States. Indeed, its shoes, cleats and other sporting equipment are currently available to American consumers at some of the largest retailers in the country, including Kmart, Modell’s, Amazon.com, and the company the *New York Times* described as “the world’s largest retailer,” Wal-Mart. (*Id.*, Exs. I-108, N-R.) In preparing for this motion, a summer clerk in defendant’s counsel’s office visited two stores in Manhattan to see what Mitre products were available for purchase. At Kmart, she found and

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photographed Mitre soccer balls and shin guards for sale. At Modell's sporting goods store, she found and photographed several varieties of Mitre soccer balls and cleats. (Bolger Dec., Exs. Q, R) Defendant's counsel also found Mitre goods for sale on-line at Wal-Mart, including soccer balls, cleats and soccer nets, and on Amazon.com. (*Id.*, Ex. N.) Mitre soccer balls also are available for sale to the American consumer on other websites, from large consumer websites like eBay to small, family owned businesses like Pittsburgh Soccer & Sports. (*Id.*, Exs. O, P, Q.) Whether a consumer in the United States is looking to purchase a soccer ball or is just walking down the aisle in a retail store or browsing online, he or she will be faced with the Mitre name and Mitre branded products.

[REDACTED]

[REDACTED]

[REDACTED]

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69. In short, by its own design, Mitre is present wherever soccer is played throughout the United States, and wherever consumers might go to purchase soccer equipment.

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Respectfully submitted,

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